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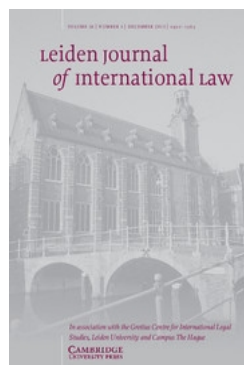
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Testifying about ‘Uncivilized Events’: Problematic Representations of Africa in the Trial against Charles Taylor

GERHARD ANDERS*

Abstract

The article presents an anthropological analysis of witness testimony about ritual murder, cannibalism, and secret societies in the trial against Charles Taylor in The Hague. In the first part, a comprehensive in-depth analysis of the testimony of one prosecution witness serves as a case study to illustrate the difficulties of assessing the veracity of witness statements on alleged atrocities linked to African religious and spiritual beliefs. The second part contextualizes the testimony heard in the trial against Charles Taylor by drawing on historical sources and the academic literature on West Africa. The analysis reveals striking parallels between the prosecution narrative and colonial representations of Africa as a mysterious and savage place.

Key words

anthropology of international criminal justice; history of ritual murder and cannibalism in West Africa; international criminal trials; Special Court for Sierra Leone; testimony of African witnesses

I. INTRODUCTION

The real threat to humanity on several levels is bred in the fields of lawlessness in the Third World. Fertilized by greed and corruption, what grows out of these regions in the world are terror, war crimes, and crimes against humanity.

Conflicts in these dark corners are evolving into uncivilised events. They appear to be less political and are more criminal in origin and scope. Combatants lost in this dismal swamp become mere pawns in a deadly joint criminal enterprise started by actors for their own personal criminal gain. Respect for the law of armed conflict decreases or disappears entirely in this new type of warfare as the involvement of the criminal element increases.

D. Crane, first Chief Prosecutor of the Special Court for Sierra Leone[†]

David Crane’s view on Africa as one of ‘the fields of lawlessness’ and ‘dark corners’ of the world reflects stereotypes that continue to hold the Western imagination of

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† D. Crane, ‘Dancing with the Devil: Prosecuting West Africa’s Warlords: Building Initial Prosecuting Strategy for an International Tribunal after Third World Armed Conflicts’, (2005) 37 CaseWRJIL 1, at 3.

Africa as 'one of the dark places of the earth',² as Joseph Conrad famously put it. Admittedly, thanks to the efforts of social scientists and historians such as Mamdani³ and Mudimbe,⁴ as well as post-colonial critics,⁵ it is no longer politically correct to represent Africa as a continent without history, inhabited by wild and primitive tribes. And yet, these stereotypes quickly rear their heads in Western representations of Africa and African culture. Often, these accounts are rife with an imagery of savagery and magic presenting Africa as the exact opposite of the rational and modern West.

Whilst David Crane might be less circumspect than others, his view is by no means exceptional in the field of international criminal law. Prosecutors of the international criminal tribunals in particular are prone to equating Africa with lawlessness and portraying allegedly criminal African leaders as absolute evil. For instance, when Moreno-Ocampo compared Bashir with Hitler and drew parallels between the Holocaust and the conflict in Darfur, he was heavily criticized by the anthropologists de Waal⁶ and Mamdani,⁷ who took issue with his characterization of the conflict in Darfur as genocide and Bashir as the criminal mastermind behind the violence directed at several ethnic groups.

During the late 1990s, Charles Taylor occupied a similar place in the popular imagination. The US and UK governments, in league with Western humanitarian NGOs, levelled serious allegations against the former rebel leader, who was elected president of Liberia in 1997. He was accused of harbouring criminals and terrorists, spreading chaos throughout West Africa, and supporting rebel groups in neighbouring Sierra Leone. In many ways, Taylor was the archetypal African warlord – a new type of African leader who was said to operate like an entrepreneur, hiding his criminal activities behind the facade of the state.⁸

In 2001, the campaign against Taylor resulted in an arms embargo by the UN Security Council against Liberia and eventually in the indictment against Charles Taylor. Crane unsealed the indictment in June 2003, when Taylor, then president of Liberia, attended a peace conference in Ghana. According to Crane:

[the] unsealing of his indictment was a carefully laid plan to humble Africa's most powerful warlord before the law and to bring world attention to this African leader who destroyed two West African nations, Sierra Leone and Liberia, and was individually criminally liable for the murder, rape, maiming, and mutilation of over a million human beings.⁹

It is not the purpose of this article to examine the veracity of these and other hyperbolic claims made by both prosecution and defence. It rather aims at elucidating

2 J. Conrad, *Heart of Darkness* (1999), 4.

3 M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (1996).

4 V. Y. Mudimbe, *The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge* (1988).

5 A. Mbembe, *On the Postcolony* (2001); E. Said, *Orientalism* (1978).

6 A. de Waal, 'Moreno Ocampo's Coup de Theatre', entry posted on 29 July 2008, SSRIC Blog 'Making Sense of Sudan', available online at <http://africanarguments.org/2008/07/29/moreno-ocampocoup-de-theatre/>.

7 M. Mamdani, 'The Politics of Naming: Genocide, Civil War, Insurgency', (2007) 29 *London Review of Books* 5.

8 Cf. W. Reno, *Warlord Politics and African States* (1999).

9 D. Crane, 'Handing Over Charles Taylor: It's Time', *Jurist: Legal News and Research*, available online at <http://jurist.law.pitt.edu/forumy/2006/03/handing-over-charles-taylor-its-time.php>.

representations of African culture in the trial against Charles Taylor. I will argue that the adversary system used in this and other international criminal trials has favoured stereotypical representations of Africa and Africans as the West's irrational Other. According to the adversarial system, prosecution and defence are the masters of the trial, each trying to convince the judge or the jury of its case. In the highly complex cases usually heard before international tribunals, this tends to result in a fairly long trial during which a large number of witnesses give testimony and are subjected to cross-examination by the opposing party. Due to the adversarial system, the courtroom becomes the site of controversy, throwing into sharp relief the differences between the prosecution's and the defence's cases. The parties then attempt to construct narratives through witness testimony and documentary evidence confirming their theories of what the case is about.¹⁰ According to Anglo-Saxon legal thinking, a major influence on the proceedings at the Special Court for Sierra Leone, 'practical truth' emerges from this 'harsh tension of opposites'.¹¹ However, the prominent role witness testimony plays in international criminal trials and, in particular, at the Special Court for Sierra Leone is highly problematic, as recent research has convincingly shown.¹²

The emphasis on witness testimony in open court in international criminal trials renders the courtroom hearings a primary site of ethnographic research. The Dutch writer Harry Mulisch, although no ethnographer himself, aptly characterizes this approach. In his book on the trial against Eichmann, he compared a criminal trial to a work of art. According to Mulisch, the trial is:

A thing both invisibly and irrevocably assembled by the judge piece by piece from the material contributed by prosecutor and defence counsel. Sometimes he refuses something, sometimes he asks for something else, tests, inquires, wipes with a pale hand over his mouth, thinks, ponders rules, applies the law, remembers precedents, and slowly the thing grows. In the meantime a human being sits in a glass cage whom he hardly looks at, hardly thinks of – he studies documents, stares at the ceiling, compares viewpoints, renders decisions, assigns numbers. Thus the thing grows. When it is completed the man in the glass cage will either fall down or stay upright. Even during the most boring sessions I feel this fantastical, merciless process at work.¹³

This article will focus on several of these pieces: the testimony of one prosecution witness who testified against Charles Taylor in March 2008 and the testimony of Charles Taylor and several defence witnesses called to rebut the prosecution witness. The witness, a so-called linkage or insider witness, testified about the archetypal horror associated with the 'uncivilised events'¹⁴ taking place in Africa: ritual murder and cannibalism. The analysis presented here will place this witness statement in the context of the history of Western representations of African culture and the scholarly literature on these phenomena. It reveals problematic continuities with the colonial

¹⁰ Cf. R. Burns, *A Theory of the Trial* (2001).

¹¹ *Ibid.*, at 221.

¹² N. A. Combs, *Fact-Finding without Facts: The Uncertain Evidentiary Foundations of International Criminal Convictions* (2010).

¹³ H. Mulisch, *De Zaak 40/61: Een Reportage* (1962), 66–7 (author's translation).

¹⁴ Crane, *supra* note 1.

imagination that have the potential to undermine international criminal law's claim to universality.

Of course, the analysis of the evidence given by one witness alone is not sufficient proof of international criminal law's lack of legitimacy. This article merely aims at illustrating the prevalent tendency to represent the accused persons as absolute evil, and Africa as primitive and lawless. As an ethnographic piece, it presents a fine-grained in-depth analysis rather than quantitative data on representations of Africa in court. Drawing on the evidence given in the trial against Taylor, colonial sources, and the academic literature on West Africa, the present analysis seeks to complement critical scholarship of international criminal law and outline future avenues of inquiry. Admittedly, its critique is mainly directed at the prosecution. This focus on the prosecution case in the trial against Charles Taylor is justified, since international criminal law has been largely shaped by the prosecutors, who enjoy a wide discretion to select individuals for prosecution.¹⁵

2. THE PROSECUTION'S CASE AND THE TESTIMONY OF JOSEPH 'ZIGZAG' MARZAH

The trial against Charles Taylor began on 4 June 2007 with the opening statement of the prosecution in The Hague, to where the trial had been moved because of security concerns. However, proceedings immediately came to a halt because Taylor dismissed his lawyer on that day. A new defence team was formed, with the British barrister and Queen's Council Courtenay Griffiths as lead counsel, and the trial was resumed on 7 January 2008. According to the indictment, Taylor was charged with 11 counts of war crimes and crimes against humanity.¹⁶ The prosecutor accused Taylor of supporting the rebel groups in neighbouring Sierra Leone, exchanging diamonds for arms. According to the prosecution, he had formed a joint criminal enterprise with the leaders of the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC), with the objective of overthrowing the government in Sierra Leone and gaining control of the diamond fields in the south-east of the country.

It is open to debate how much the prosecution's narrative of the civil war in Sierra Leone was actually shaped by media reports about the brutal and senseless violence, especially the amputation of limbs and other horrible atrocities, that finally brought the civil war in Sierra Leone to the attention of the international media in January 1999, when renegade soldiers attacked Freetown. To the majority of Western journalists and observers, the civil war in Sierra Leone appeared to be characterized by irrational and extreme violence committed mainly by drug-crazed child soldiers.

15 Cf. L. Côté, 'Reflections on the Exercise of Prosecutorial Discretion in International Criminal Law', (2005) 3 JICJ 162; H. B. Jallow, 'Prosecutorial Discretion and International Criminal Justice', (2005) 3 JICJ 145; K. A. Rodman, 'Is Peace in the Interests of Justice? The Case for Broad Prosecutorial Discretion at the ICC', (2009) 22 LJIL 99.

16 See *The Prosecutor v. Charles Ghankay Taylor*, Prosecution's Second Amended Indictment, 29 May 2007, SCSL-03-01-PT-263 (hereafter, *Taylor Indictment*).

The only rational dimension seemed to be the pursuit of so-called blood diamonds for the personal benefit of the leaders of the armed factions.

In any case, these two themes have been dominating the prosecution's narrative in all four trials heard before the Special Court from the very beginning. For instance, in his opening statement on 5 July 2004 in the trial against three leaders of the RUF, the main rebel group during the civil war, David Crane spoke of 'a tale of horror, beyond the gothic into the realm of Dante's inferno'.¹⁷ The objective of the accused was 'power, riches, and control in furtherance of a joint criminal enterprise'.¹⁸ According to Crane, 'blood diamonds are the common thread that bound together this criminal enterprise'.¹⁹ In his eyes, the case was about a gang of criminals led by Charles Taylor, who committed heinous crimes in an attempt to gain control over the diamond fields in eastern Sierra Leone. For Crane, there was no doubt that the three accused were 'the commanders of an army of evil, a corps of destroyers and a brigade of executioners'.²⁰ Crane's baroque and hyperbolic style was heavily criticized by both counsel for the accused and the Bench,²¹ although Sierra Leonean audiences loved his sense for drama. His successors adopted a much more moderate and sober tone in their statements, although the themes of senseless atrocities and greed for diamonds in eastern Sierra Leone as the driving motive of the accused persons have continued to form the foundation of the prosecution's narrative. For instance, Stephen Rapp's and Mohamed Bangura's opening statement in the trial against Charles Taylor on 4 June 2007 was very business-like and devoid of Crane's Manichean imagery.²²

However, witness testimony soon introduced Africa as a place of horror and absolute evil to the sterile courtroom on The Hague's outskirts, where Trial Chamber II heard the case against Taylor. One of the first witnesses called by the prosecution in March 2008 was Joseph 'ZigZag' Marzah, a former member of Taylor's group, the National Patriotic Front of Liberia (NPFL). Marzah testified about arms shipments to Sierra Leone in exchange for diamonds, Taylor's support for the rebels there, and war crimes he claimed to have committed following Taylor's orders. The most dramatic part of his testimony, however, concerned particularly gruesome manifestations of supposedly African culture. He claimed to have committed numerous acts of cannibalism and participated in ritual murders as a member of a secret society led by Charles Taylor. Marzah's testimony resulted in a short-lived flurry of media attention for the Special Court. At the time, the chronically cash-strapped Special Court, which had to rely on voluntary contributions, was badly in need of publicity to attract funding.²³ It was striking how Marzah's testimony spoke to a deep-seated

17 *Prosecutor v. Issa Hasan Sesay, Morris Kallon, Augustine Gbao*, Transcript 5 July 2004, SCSL-04-15-T, at 19.

18 *Ibid.*, at 20.

19 *Ibid.*, at 20.

20 *Ibid.*, at 21.

21 *Ibid.*, at 20.

22 *Prosecutor v. Charles Ghankay Taylor*, Transcript, SCSL-2003-01-PT, 1-90 (hereafter, *Taylor Trial Transcript*).

23 See S. Rapp, 'The UN's Special International Criminal Courts Are Now Exceeding Expectations', lecture held on 11 November 2008 at Columbia Law School, available online at www.law.columbia.edu/media_inquiries/news_events/2008/november2008/rapp_lecture; and 'Money Troubles at Trial of First

Western fascination for Africa's 'savagery' and 'primitivism' – a theme explored in more detail in the second part of this article.

Marzah's testimony added some urgently needed colour to the prosecution case, which was lacking steam at the time. In fact, the testimony of another prosecution witness, a former RUF commander, had to be interrupted for Marzah's testimony. He was the 21st prosecution witness and belonged to the category of linkage witnesses, insider witnesses testifying about links between Charles Taylor and the two rebel groups in Sierra Leone, the RUF and the AFRC. Nine other linkage witnesses had testified before Marzah. They included former members of Taylor's security service and several commanders and radio operators of the RUF. Their testimonies centred on shipments of arms and ammunition to the RUF in exchange for diamonds and the close relationship between the RUF and Taylor, who, they claimed, had been the supreme leader of the RUF.

The insider witnesses' testimony formed a crucial part of the prosecution case. Through them, the prosecution aimed at establishing a connection between the crimes committed by the RUF and the AFRC in Sierra Leone and Charles Taylor in Liberia. This connection was vital, since the court's jurisdiction was limited to crimes against humanity and war crimes 'committed in the territory of Sierra Leone since 30 November 1996'.²⁴ Prior to Marzah, the prosecutors had also called six so-called crime base witnesses who testified about crimes committed against them or witnessed by them. These witnesses, some of them victims of amputations and rapes, testified about atrocities committed during the rebel offensive in 1998 and the attack on Freetown in January 1999. The prosecution had also called several expert witnesses and factual witnesses, including Stephen Ellis, the author of the authoritative account of the first civil war in Liberia (1989–96). They were called to provide background for the crucial aspects of the prosecution case: diamonds, sexual violence, child soldiers, and the ties between Taylor and the rebel groups in Sierra Leone.²⁵ None of these witnesses, however, depicted Taylor as downright evil and Griffiths succeeded in raising doubts on the credibility of the insider witnesses in cross-examination. By contrast, Marzah offered bizarre and raw accounts of human sacrifice, brutal murder, and cannibalism, duly reported by the news media.

2.1. Lost in translation: a difficult witness

Only the sensational content of Marzah's testimony can explain why the prosecution called him to the witness stand. He was probably the worst possible witness. His testimony was sketchy and almost devoid of detail. He was unable to provide dates for most of the events he testified about and was very vague on specific locations. During cross-examination, Griffiths pointed out numerous discrepancies between earlier statements he had made to the prosecution and his testimony in court. Confronted with these discrepancies, Marzah insisted on the veracity of his testimony

African Leader to Face a War Crimes Court', *The Times*, 22 April 2008, available online at <http://business.timesonline.co.uk/tol/business/law/article3785508.ece>.

24 Art. 1(1), Statute of the Special Court for Sierra Leone.

25 For an excellent summary of the prosecution case, see J. Easterday, *The Trial of Charles Taylor Part I: Prosecuting 'Persons who Bear the Greatest Responsibility'*, June 2010, at 40–3.

in court and explained the discrepancies as mistakes the prosecutors must have made when taking his statements because they 'can make errors too. The people do not understand my English sometimes when I explain',²⁶ as he pointed out during cross-examination.

Marzah, who did not speak English, testified in Liberian English, the creole language widely spoken in Liberia (a variety of pidgin English). As with all witnesses who did not testify in English, the official court language, the court relied on interpreters who provided simultaneous translation. One interpreter translated what was said by lawyers and judges for the witness into Liberian English and another interpreter translated what the witness said into English. In general, translation before the Special Court was beset with difficulties, as Combs²⁷ and Kelsall²⁸ show in their studies, but Marzah's witness testimony was especially challenging for the interpreters. He spoke too fast and did not slow down in spite of frequent reminders of the judges to speak slower in order to enable the interpreters to translate what was said. Often, Marzah did not respond to questions put to him. It was not entirely clear whether this was due to his inability or unwillingness to answer the question or due to mistakes made by the interpreter. At least, at one point, it became clear that the interpreter translating into Liberian English had left things out, which might explain partly the apparent confusion of the witness.²⁹

Another difficulty was Marzah's lack of formal education. He had never attended school and was illiterate.³⁰ As a consequence, he experienced difficulties in understanding questions put to him and responded in what was seen as an inappropriate manner. Several times, this resulted in considerable confusion in the courtroom. For instance, at one point, Griffiths asked Marzah about atrocities committed in Liberia, ending his sentence with the word 'right?' to indicate the interrogative form, but the witness took 'right' in moral terms and responded that it was 'not right' to commit these crimes.³¹ During cross-examination, it also became clear that he did not have a grasp of numbers and only had basic calculation skills.³²

The difficulties during Marzah's testimony were by no means unusual. Many witnesses who testified before the Special Court were illiterate and not used to Western conventions of determining distance and time, which often posed a formidable challenge to the court's fact-finding process, as Combs³³ and Kelsall³⁴ show with regard to the other trials heard before the Special Court. These difficulties were further exacerbated by the temporal distance from the events described and the long time span many witnesses testified about – factors that considerably reduce the reliability of witness testimony, as Combs notes.³⁵ Marzah testified about an 18-year period

26 Taylor Trial Transcript, *supra* note 22, at 6018.

27 Combs, *supra* note 12.

28 T. Kelsall, *Culture under Cross-Examination: International Justice and the Special Court for Sierra Leone* (2009).

29 Taylor Trial Transcript, *supra* note 22, at 6044.

30 Ibid., at 5968, 6080.

31 Ibid., at 6024.

32 Ibid., at 6082.

33 Combs, *supra* note 12, at 21–44.

34 Kelsall, *supra* note 28, at 171–224.

35 Combs, *supra* note 12, at 14–15.

and events that allegedly took place in three countries. The most recent events dated back to 2003 but the bulk of his testimony concerned events that happened between 1996 and 2000, namely 8–12 years ago.

During his testimony, it became clear that Marzah had committed so many atrocities and fought so many battles that the individual acts blurred into one. He would have needed more guidance regarding specific locations or battles but the examining lawyers were not really interested in eliciting those details. For instance, Griffiths started the cross-examination by asking for an estimate of how many people the witness had killed, but Marzah did not fully grasp Griffiths's intention, although he knew that it was important to claim to have acted on Taylor's orders, as the following exchange shows:

- Griffiths: So would it be fair to say, Mr Marzah, that you have killed hundreds of people?
 Marzah: I told you it was more than that by Charles Taylor's orders.
 Griffiths: So did it run into thousands then?
 Marzah: No, I don't have an answer for that. I said it's more than that. If you want us to check bit by bit then you should open the question for me, then I will start giving – naming it from start from the time we arrived and then I will talk about each.³⁶

Clearly, he was not unwilling to provide details of individual crimes, but he was unable to give an estimate because the number of victims had never mattered to him. When pressed for numbers, he was eager to confess hundreds of murders, committing dozens of acts of cannibalism, killing hundreds of babies and pregnant women, but it was clear that he did not refer to actual numbers.³⁷

Like other perpetrators who testified before the Special Court or the Liberian Truth and Reconciliation Commission, he seemed proud of what he did and refused to show remorse or regret.³⁸ Marzah presented himself as a warrior and 'soldier man'³⁹ who executed orders without hesitation. He – and the interpreter, who obviously could not find an adequate equivalent – clearly was unfamiliar with the Western idiom of remorse and conscience, as the following exchange between him and Griffiths shows:

- Griffiths: So, Mr Marzah, can we take it then that you had no difficulty committing those horrible crimes?
 Marzah: Repeat your question again. I didn't get you. I'm sorry sir.
 Griffiths: Would it be fair to say that you had no difficulty committing those horrible crimes?

³⁶ *Taylor Trial Transcript*, *supra* note 22, at 5944.

³⁷ *Ibid.*, at 5943–5.

³⁸ In his account of the TRC hearings in Monrovia, Gberie notes that Milton Blahy, a former militia commander who claimed that he had performed countless acts of magical cannibalism and killed thousands of people, 'behaved less like a contrite sinner than a hero seeking a national platform', L. Gberie, 'Briefing: Truth and Justice on Trial in Liberia', (2008) 107 *African Affairs* 1, at 4. See also the testimony of an important insider witness in the trial against three leaders of the Civil Defence Forces (CDF), a pro-government militia, *Prosecutor v. Sam Hinga Norman, Moinina Fofana, Allieu Kondewa*, Transcript 10 March 2005, SCSL-04-14-T, at 46, 48–9, 54–5, 81.

³⁹ *Taylor Trial Transcript*, *supra* note 22, at 5949.

- Marzah: I told you it was an order from my chief Charles Taylor and I would not deny his orders, refuse his orders, so whatever he told me to do I will do it.
- Griffiths: Let me try my question. Did you have any difficulty committing any of these horrendous crimes?
- Presiding Judge: Perhaps, Mr Griffiths, it might help if you are saying a physical difficulty, a mental difficulty, an emotional difficulty.
- Griffiths: I am grateful, your honour. My fault: Did you have any kind of mental or emotional difficulty committing these crimes?
- Marzah: No way, no way, no way. I stayed in my normal position as ZigZag Marzah.
- Griffiths: Mr Marzah, would it be fair to describe you as a sadist?
- Marzah: It is up to you, but I was a servant to my chief Charles Taylor.⁴⁰

This exchange exemplifies the problems of translation faced by the Special Court. Obviously, Marzah did not understand Griffiths and instead stuck to his role as a prosecution witness who had followed orders by Taylor when he committed these 'horrific crimes'.

At times, Marzah did not seem to make any sense. For instance, he talked about a 'passport sized diamond' 'dressed up in a human being form',⁴¹ but all attempts by the prosecutor who led the witness in direct examination to elucidate what he actually meant utterly failed. In general, the three days of Marzah's testimony were characterized by confusion, misinterpretation, and his inability to produce an account adapted to the requirements of Western legal fact-finding. However, he was not consistent in his failure to adapt to the courtroom. At times, he understood perfectly well what was going on and what was meant by questions put to him.⁴²

It seems the prosecutors were aware of Marzah's weaknesses as a witness. Before the direct examination, the prosecution sought to limit the examination of the witness (direct examination to one day and cross-examination to two days).⁴³ The reason given for this unusual request was the limited duration of security measures provided by UN peacekeepers at Marzah's residence during his testimony and shortly thereafter.⁴⁴ Whether this was the only reason for the prosecution's application is open to question, since this issue never arose with any of the other 90 prosecution witnesses.

Paradoxically, his idiosyncratic and raw testimony in Liberian English and his inability to read the courtroom situation increased his authenticity. He appeared to have stepped from the heart of darkness right into the sober courtroom on the outskirts of The Hague – a mad warrior and killer who showed no remorse for the horrible crimes he had committed and pointed an accusing finger at his former boss. Taylor, who had been at pains to project the image of a respectable statesman sporting grey double-breasted suits, golden cufflinks, and gold-rimmed glasses, was visibly disgusted by Marzah's performance.

⁴⁰ *Taylor Trial Transcript*, *supra* note 22, at 5946–7.

⁴¹ *Ibid.*, at 5878–9.

⁴² *Cf. ibid.*, at 5965–6.

⁴³ *Ibid.*, at 5837.

⁴⁴ *Ibid.*, at 5837.

2.2. A glimpse into the heart of darkness?

Marzah testified at some length about three horrific manifestations of African 'primitivism' and 'savagery'. These were by no means the only atrocities described by the witness but they are singled out in this analysis because they resonated with entrenched Western stereotypes of African 'culture'.⁴⁵

In direct examination, he claimed to have been present when a woman was sacrificed during a ceremony at a beach in Monrovia in 1995.⁴⁶ In this regard, it is noteworthy that only war crimes and crimes against humanity committed in Sierra Leone between 30 November 1996 and February 2002 fall under the Special Court's jurisdiction. The judges, however, took a very inclusive view and allowed evidence falling outside the scope of the indictment.⁴⁷ According to Marzah, Taylor's bodyguards, including Marzah himself, dug a pit on the beach near Monrovia, where they buried a pregnant woman alive. After the woman was buried, a 'white sheep'⁴⁸ was torn apart by Taylor's men.

The prosecutor leading the witness in direct examination left it at this summary description but Griffiths pressed the witness for more details in cross-examination. Marzah's account of the ceremony baffled Griffiths, who kept on asking how the sheep was killed:

Griffiths: Given that you have given us this account, and in order to test its veracity, that is whether or not you are telling the truth, you know where it says there that you and the others tore the meat off the live sheep and ate the meat, is that true?

Marzah: Yes, yes. I told you it was a ceremony.

Griffiths: Did you use any knife, or any other implement, to cut the sheep?

Marzah: No, no.

Griffiths: You used your bare hands?

Marzah: Bare hands. We fought over it as a guerrilla ceremony.

...

Griffiths: So, if we can summarise thus far – and I want you to appreciate I am just seeing whether there is any truth to this – on your reckoning, would it be fair to say there was a group of about 10 to 12 people there, based on what you have told us so far?

Marzah: I am telling you more than that. It was a ceremony and this ceremony of this sort, to fight a raw animal, it is a culture from way back in our tradition. Even when the guerrillas are ready to make sacrifice, they will fight over a living animal and share it among themselves. You who are lucky will get a piece. If you are not lucky, you won't get.

45 Marzah also testified about the use of human intestines and skulls at checkpoints, the killing of babies and pregnant women, several massacres of civilians, and the execution of civilians, peacekeepers, and enemy combatants in Liberia, Sierra Leone, and Guinea, consistently claiming to have committed these crimes on Taylor's orders. Marzah was not the only witness before the Special Court for Sierra Leone who testified about cannibalism, ritual murder, and secret societies. In the trial against three leaders of the Civil Defence Force (CDF), a pro-government militia, one prosecution witness gave extensive testimony on ritual killings connected to initiation rituals (*Prosecutor v. Sam Hinga Norman, Moinina Fofana, Allieu Kondewa*, *supra* note 38, at 18, 21–2, 25–6, 56–9), but this is beyond the scope of the present analysis. The testimony of this particular witness is well described by Kelsall, *supra* note 28, at 124–7.

46 *Taylor Trial Transcript*, *supra* note 22, at 5914–19.

47 *Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T-1101. Decision on Defence Motion to Exclude Evidence Falling outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 6 October 2010.

48 *Taylor Trial Transcript*, *supra* note 22, at 5916.

- Griffiths: Were you lucky?
 Marzah: I had a piece, I had a piece. I had a piece and it was not an animal to cook, or roast. Any piece that stays with you, straight in your mouth.
 ...
 Griffiths: So you got a piece, but the second part of my question is this – and you remember I am testing the truth of what you are telling us – how did they manage, without any knives or any implement, to cut up and tear this sheep apart? I am glad you find it funny.
 Marzah: Mr Lawyer, I am happy. That is why I am laughing. You are supposed to know, as a African, when we are talking about the warrior ceremony and moreover to fight over a living animal, you know, it was something even some people who were wounded on their bodies and all. Mr Lawyer, you are supposed to know you are from Africa.⁴⁹

To this Griffiths, who is of Jamaican descent, coolly responded that this 'is not something I was used to in Kingston'.⁵⁰ It is striking how Marzah's testimony about 'a culture from way back in our tradition' confirmed Western stereotypes of African culture. The scene Griffiths tried to picture could have been directly taken from H. Rider Haggard, but this was an authentic voice from Africa itself implicating Taylor in human sacrifice and supposedly African warrior ceremonies.

This interpretation should by no means imply that Marzah's account of the ceremony was a product of his imagination. Ceremonies in which animals, usually a chicken or goat, are sacrificed are very common in West Africa but they never involve a human sacrifice.⁵¹ It is also known that, in pre-colonial times, there existed special war ceremonies that were revived and adapted during the civil wars of the 1990s.⁵² According to Ellis, it is possible that human sacrifices featured in some of these ceremonies.⁵³ In light of the countless atrocities committed during the civil war in Liberia, it is not inconceivable that a ceremony featuring elements as described by Marzah did indeed take place.

Whilst his description might contain elements of truth, two caveats have to be made here. First, it is difficult to assess the veracity of Marzah's testimony. No other witness corroborated his account. On the contrary, the first defence witness, Charles Taylor, who took the stand in July 2009, contradicted Marzah on this issue. Furthermore, Marzah's testimony was so chaotic and sketchy that the whole account or parts of it could have been fabricated, as Griffiths pointed out during cross-examination.⁵⁴ It should be noted, however, that the trial chamber enjoys considerable discretion in assessing the credibility and reliability of witness testimony. It may rely on the testimony of a single witness without corroboration.⁵⁵ According to the trial chamber judgment in the RUF trial, internal inconsistencies and inconsistencies with

49 Ibid., at 6004–12.

50 Ibid., at 6011.

51 See R. Shaw, *Memories of the Slave Trade: Ritual and Historical Imagination in Sierra Leone* (2002), 244.

52 Cf. S. Ellis, *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimension of an African Civil War* (2007), 260; and M. Ferme, *The Underneath of Things: Violence, History, and the Everyday in Sierra Leone* (2001), 7–8.

53 Ellis, *supra* note 52, at 236–7.

54 Taylor Trial Transcript, *supra* note 22, at 6012.

55 *Prosecutor against Alex Tamba Brima, Brima Bazzy Kamara, Santigie Borbor Kanu*, Appeals Judgment, 22 February 2008, SCSL-2004-16-A-675-1, at 129; *Prosecutor against Sam Hinga Norman, Moinina Fofana, Allieu Kondewa*,

other evidence do not necessarily undermine the credibility of a witness.⁵⁶ Second, his claims about African tradition do not constitute historical and ethnographic knowledge. They amount to little more than a layperson's ideas about tradition and culture. As such, they are mere representations of African culture in the context of an international war crimes trial rather than pieces of information about an imaginary African 'culture'.

Marzah's account of African horrors did not stop there. He claimed to have participated in the murder of a rebel commander known as 'Superman' from Sierra Leone, who was suspected of conniving with the enemy. According to Marzah, Taylor had given the order to kill the man and take his arm to be used in a ceremony at the house of Taylor's chief of security, Benjamin Yeaten.⁵⁷ After having shot 'Superman', his killers, including the witness, 'cut off his arm', 'took off his head', and 'opened his chest'.⁵⁸ Then, according to Marzah:

We took out his liver. The liver was for our ceremony in Ben's yard at the banana bush where we were with Dogolea. We took it from there. From there I and Ben entered into the fence and he left me there and entered into Charles Taylor's house with Superman's hand wrapped in a tissue, but he did not come outside with it.

After he came back and we went back to the banana bush to go and cook the liver of Superman before he gave us 200 US dollars. He said that was our secret money that Charles Taylor has given us. He went and bought some drinks and things and after we had finished eating Superman's liver we dispersed from there.⁵⁹

The prosecutor leading the witness in direct examination then established that the witness actually referred to the hand, not the arm,⁶⁰ and the heart rather than the liver⁶¹ of the victim. Marzah was not consistent during his testimony. Sometimes, he referred to the removal of the heart and sometimes to that of the liver⁶² but he always meant the heart. In Liberian English and Krio, the Creole language widely spoken in Sierra Leone, both words are synonymous and usually refer to the heart.

Marzah offered no reasons for the consumption of human hearts. He rather lamely stated that 'we ate it, Ben ate some, all of us who were on that mission, because of some kind of reason when we do it we have to eat it at all cost'.⁶³ Considering the ritual character of these alleged acts of cannibalism, this statement strikes one as odd, to say the least. Unfortunately, neither the prosecutor nor Griffiths pressed Marzah on this and thus missed an opportunity to clarify this issue and test Marzah's story.

Cannibalism proved to be a recurring theme. During cross-examination on 13 March 2008, Marzah stated he had consumed human flesh 'like pork'⁶⁴ on

Appeals Judgment, SCSL-04-14-A-829, 28 May 2008, at 199; *Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao*, Judgment, SCSL-04-15-T-1234, 2 March 2009, at 171.

56 See *Prosecutor against Issa Hassan Sesay, Morris Kallon, Augustine Gbao*, *supra* note 55, at 167.

57 *Taylor Trial Transcript*, *supra* note 22, at 5928.

58 *Ibid.*, at 5929.

59 *Ibid.*, at 5930.

60 *Ibid.*, at 5930.

61 *Ibid.*, at 5931.

62 *Ibid.*, at 6153.

63 *Ibid.*, at 5931.

64 *Ibid.*, at 5998.

numerous occasions. Marzah, a Gio from Nimba County, claimed to have led a group of Gio fighters during the civil war in the 1990s that committed acts of cannibalism against members of the Krahn ethnic group to take revenge for atrocities committed against the Gio. During the 1980s, Nimba County and the Gio had been subject to a campaign of terror under the regime of Master Sergeant Doe, Liberia's president between 1980 and 1990. Doe belonged to the Krahn ethnic group and privileged some segments of the Krahn, appointing them to positions in the security services. By contrast, the Gio were suspected of opposing Doe's regime and were politically marginalized. When Taylor's forces invaded Nimba County in December 1989, many Gio saw an opportunity to settle old scores and joined the rebels to overthrow Doe's regime.⁶⁵

These crimes, it should be remembered, also fell outside the Special Court's jurisdiction, which was limited to the territory of Sierra Leone, but Marzah further claimed to have committed acts of cannibalism against Nigerian peacekeepers and white UN observers in Sierra Leone, although he was unclear about locations and dates. Prompted by a baffled Griffiths, he described in graphic detail how he had killed and eaten people. Again, his lack of remorse and matter-of-fact way of talking about these horrific events were striking and had a chilling effect:

Griffiths: So help me, please, just how do you prepare a human being for a pot?

Marzah: I am sorry there's no way to demonstrate here because we are sitting.

Griffiths: Just describe it to us?

Marzah: Okay. The way we do it, the way you are standing, sometimes we lay you down, slit your throat and butcher you and take out your skin, your flesh, throw your head away, your intestines, your flesh, we take it and put it in a pot and cook it and eat it.⁶⁶

Of course, Marzah claimed to have carried out these atrocities on Taylor's orders. As with regard to the human sacrifice that allegedly took place on the beach near Monrovia, it is hard to assess the veracity of Marzah's account. And, as with the account of the human sacrifice, no other witness gave corroborating evidence.

The next day, Marzah's testimony reached an unexpected climax. When cornered by Griffiths, who accused him of lying to the court, Marzah claimed to have been the member of a secret society headed by Taylor. This society, referred to as *poro* by Marzah, consisted of Taylor's inner circle and was used by him to ensure his followers' loyalty and intimidate his opponents. Marzah claimed that this secret society had also practised magical cannibalism, eating opponents' hearts during their ceremonies.⁶⁷ In Marzah's words, Taylor was the 'big boss' or 'Dankpannah' of this *poro*-society, striking fear into its members' hearts.⁶⁸

According to Griffiths, Marzah had never been close to Taylor and had never received any orders to commit atrocities. Marzah responded in the following words:

⁶⁵ Ibid., at 5995–7. See also Ellis, *supra* note 52, at 78–9.

⁶⁶ Taylor Trial Transcript, *supra* note 22, at 5999–6000.

⁶⁷ Ibid., at 6153–6.

⁶⁸ Ibid., at 6156.

- Marzah: Thank you very much. During Charles Taylor's administration, there was no man to say he will have his own way to do such things. No way. Under no condition. What happened is what I am telling you and I am telling you the accurate story. And now too much of the questioning that you are bringing you have let me disclose to you the secrets of my Poro society and that means at any time I move from here I will no longer be member of that society. That is a secret and that made him Dankpannah.
- ...
 Judge Sebutinde: Mr Witness, your last statement which you said 'and that made him Dankpannah', what do you mean?
- Marzah: Any big person who is part of that Poro society from whom you take instruction is commonly known as Dankpannah, but that Dankpannah name is a society name for him.
- Judge Sebutinde: What does it mean?
- Marzah: The big boss. The big boss. He is over all the bosses, in which case when he got up whilst he was coming closer to you when you look at his face you will be shrouded in fear. That is he had authority, yes.⁶⁹

The 'secrets' revealed by Marzah evoke images of sinister secret societies that are deeply entrenched in the Western imagination but his vague descriptions raise doubts regarding the veracity of his claims. There are, in fact, reports about secret societies committing ritual murders and magical cannibalism in Africa dating back to the colonial period but these are usually known as human leopards, sometimes also as human baboons or alligators, as I will explain in more detail in the second part of this article. By contrast, *poro* is the generic term used for a central political and social institution in the Upper Guinea Region including Sierra Leone and parts of Liberia. *Poro* is referred to as 'bush school' – a system of initiation for boys and young men, teaching them to become full members of the community. Often, *poro* is described as a secret society, although it is not strictly speaking secret, since, at least in rural areas, all men are initiated into the *poro*. It is secret in the sense that initiates are not allowed to reveal their knowledge about the initiation ceremony and the teachings of the *poro* to uninitiated outsiders and women. Women have their own 'bush school', known as *sande* or *bundu*. Neither *Poro* nor *sande* employs anthropophagic practices, although they are expressed in a highly symbolical language of consumption, as I will explain in the second part.⁷⁰

Marzah's use of the title 'Dankpannah' also casts some doubts on his testimony. The title is by no means a secret and Taylor is known to bear the title Dankpannah or 'Dahkpanah' since 'late 1996 or early 1997', as Ellis reports.⁷¹ Actually, the indictment against Taylor is entitled 'The Prosecutor against Charles Ghankay Taylor also known as "Dankpannah Charles Ghankay Taylor"'.⁷² According to Ellis, 'Dahkpannah' is a

69 Ibid., at 6156.

70 On *poro* and *sande* in general, see B. L. Bellman, *The Language of Secrecy: Symbols and Metaphors in Poro-Ritual* (1984); Ellis, *supra* note 52, at 223–33; Ferme, *supra* note 52; K. Little, *The Mende of Sierra Leone: A West African People in Transition* (1967), 240–53; G. Schröder, *Eine verborgene Dimension gesellschaftlicher Wirklichkeit: Anmerkungen zur Geschichte und heutigen Bedeutung der Geheimbünde Poro und Sande in Liberia* (1988).

71 Ellis, *supra* note 52, at 251.

72 Taylor Indictment, *supra* note 16, at 1.

'title used for *zoes* of the Poro society'.⁷³ *Zoe* is the title carried by the priests of the *poro*-societies.⁷⁴ Since the 1950s, the Liberian presidents claimed leadership of all *poro*-societies in order to increase their legitimacy and authority among the rural population in Liberia's hinterland. As a part of that policy, the government promoted *poro* as a manifestation of Liberian national culture.⁷⁵ Taylor's testimony on 14 July 2009 confirmed Ellis's description. According to Taylor, the word 'means chief' and, as Dankpannah, he is 'the most senior chief in the republic of Liberia today'.⁷⁶

Marzah's use of the wrong terms and the vagueness of his statement certainly undermine his credibility, although it is also possible that he merely used the wrong term to refer to an actually existing secret society. He belonged to the Gio ethnic group from north-west Liberia,⁷⁷ which did not have *poro* and *sande* until the 1960s.⁷⁸ The expansion of *poro* into areas without a tradition of *poro* during the 1960s was due to the government's endorsement of the institution as an expression of authentic Liberian culture.⁷⁹ Therefore, Marzah's use of the terms *poro* and Dankpannah might stem from his ignorance and his desire to underline the importance of the alleged secret society headed by Taylor by equating it to the *poro* as a manifestation of the Liberian state in Nimba County. Of course, his failure to explain why these ritual killings were committed is puzzling but, unfortunately, neither the judges nor the lawyers probed him on this issue, thus missing a chance to clarify ambiguities in his testimony.

2.3. A neo-colonial plot? Taylor's defence

Marzah's witness statement briefly brought the court into the headlines of the international media. And, although his testimony certainly was dramatic and disturbing, it is difficult to assess the veracity of his claims. It remains to be seen how the judges will decide. Is it really possible that Taylor, who was the president of Liberia at the time, had actually ordered his subordinates to eat human flesh and even practised magical cannibalism as the leader of a secret society? According to Taylor and his lawyers, Marzah's testimony was a complete lie, designed to demonize him. When Taylor took the witness stand as first defence witness on 14 July 2009, he commented on Marzah's testimony in the following words:

People have brought themselves so low. Here people have me eating human beings. Now, how can people be so low to even think about such a thing of me? I mean, Charles Taylor is supposed to be, with an orderly of one of my security personnel, sitting down eating human beings.⁸⁰

73 Ellis, *supra* note 52, at 251.

74 See *ibid.*, at 225.

75 Cf. *ibid.*, at 250–1.

76 Taylor Trial Transcript, *supra* note 22, at 24354.

77 *Ibid.*, at 5850.

78 E. Fischer, 'Masks in a Non-Poro Area: The Dan', (1980) 1 *Ethnologische Zeitschrift Zürich* 80, at 82.

79 Ellis, *supra* note 52, at 226; Schröder, *supra* note 70, at 46–50.

80 Taylor Trial Transcript, *supra* note 22, at 24535.

On 27 July 2009, Taylor explained that the *poro*-societies function in fact as a traditional education system for boys and have nothing to do with cannibalism.⁸¹ He emphatically denied 'having a feast of human flesh' with Marzah.⁸² He also denied that the ritual killing at the beach near Monrovia took place and stated he 'never ordered any combatant to eat anyone'.⁸³ According to Taylor, he was the victim of a media campaign: 'This whole trial has not been covered. The only thing that has been covered is who is on trial: Charles Taylor, the former President of Liberia, the cannibal, is on trial. People like publicity.'⁸⁴

Marzah clearly understood that the closeness of his relationship with Taylor was key to his credibility. He described himself as 'chief of operation' and 'operation man' who had frequent direct contact with Taylor.⁸⁵ According to Taylor and a defence witness, Marzah held in fact a very junior position, with no access to Taylor. They claimed that Marzah was a bodyguard to Benjamin Yeaten, Taylor's chief of security. Mr Zammy, a former Brigade Commander in the NPFL, testified that 'Marzah is not a sound person', who 'used to take drugs, opium, excessively'.⁸⁶ According to this witness, Marzah was 'a very small man down the line. He did not know, in fact, anybody. He was not anybody, in fact, to go close to Mr Taylor'.⁸⁷

The defence also called Mrs Annie Yeney, a businesswoman and former member of the Senate under Taylor's rule, as witness. According to Marzah, she had cooked the liver of one of Taylor's political rivals. Marzah testified that Sam Dokie, a senior member of the NPFL who had been involved in a plot against Taylor, was killed on Taylor's orders.⁸⁸ Yeney denied Marzah's accusations and told the court that Dokie had actually been married to her sister, who was also killed.⁸⁹ In a surprising turn, Yeney accused Marzah of murdering both her brother-in-law and her sister.⁹⁰ She further testified that she knew Marzah, who grew up in the same area in Nimba County, from before the war. According to Yeney's testimony, Marzah was a known criminal and rapist before the war, who was 'half mad' and frightened people.⁹¹

While doing ethnographic fieldwork in Liberia in 2007, I learned from a Catholic missionary who had had several encounters with Marzah during the civil war that he was widely known as a killer working for Taylor's chief of security, Benjamin Yeaten. According to this priest and other informants, Marzah indeed had a reputation for eating the hearts of his killed enemies, but, obviously, these rumours cannot be taken at face value, even if the sources seemed reliable. In her testimony, Yeney stated that, during the civil war, Marzah claimed to eat any prisoners he made.⁹²

81 Ibid., at 25251–4.

82 Ibid., at 25254.

83 Ibid., at 25256.

84 Ibid., at 25255.

85 Ibid., at 5893.

86 Ibid., at 40857.

87 Ibid., at 40863.

88 Ibid., at 6154.

89 Ibid., at 42097.

90 Ibid., at 42095–6.

91 Ibid., at 42093.

92 Ibid., at 42097–8.

Whether these claims, provided Yeney spoke the truth, were more than mere boasts to frighten people is impossible to assess but they certainly put Marzah's testimony in perspective, as the second part will show.

It should also be added that Marzah might have had a personal interest in testifying against Taylor. During the cross-examination, Griffiths implied that Marzah had told the prosecutors what they wanted to hear for personal gain. In total, he had received more than US\$5000 from the prosecution for expenses and lost wages.⁹³ Of course, the defence saw these payments as inducement for Marzah to fabricate an incriminating story, but to what extent these payments actually influenced Marzah's statement is difficult to say and, eventually, it is up to the judges to assess his credibility as a witness.

3. FROM LEOPARD MEN TO HEARTMEN: THE HISTORICAL AND SOCIAL CONTEXT

Was Marzah's testimony really merely a fabrication designed to demonize Taylor and evoke entrenched racist images of Africa, the 'heart of darkness', as was suggested by Taylor and his lawyer? After all, Taylor is not the first African president accused of cannibalism. Similar accusations were levelled, although never proven, against Bokassa, the notorious emperor of the Central African Republic, and the Ugandan dictator, Idi Amin. European representations of Africa and Africans have always been rife with cannibalism and the belief in magic. For example, in his lectures on the philosophy of history, Hegel denies the humanity of Africans who practise cannibalism and have no sense of history. As late as 1936, the writer Grahame Greene mentions a map 'issued by the United States War Department' with a 'blank space' filled 'with the word "Cannibals"' in his account of a journey to Liberia.⁹⁴ Greene took up a common theme of the time. While it is absolutely certain that the map of the US War Department was only a figment of his imagination, there has been some controversy regarding the prevalence of cannibalism and ritual murder in West Africa.

3.1. The leopard men and the colonial imagination

This controversy can be traced back to the first European reports about cannibalism in Africa.⁹⁵ These reports were mere hearsay and probably reflected European fears rather than actual practices.⁹⁶ Cannibalism and ritual murder gained more prominence during the expansion of the modern colonial state. During the nineteenth and twentieth centuries, colonial authorities across Africa launched several large-scale investigations into the alleged activities of secret societies committing ritual murders and performing acts of magical cannibalism. These societies were commonly referred to as Human Leopards, Baboons or Alligators, since they were

93 Ibid., at 6141–2. Payments to prosecution witnesses have been a recurrent theme in the trials before the Special Court for Sierra Leone; see Easterday, *supra* note 25, at 44–7.

94 G. Greene, *Journey without Maps* (2006/1936), 42.

95 See Shaw, *supra* note 51, at 227–30.

96 Cf. W. Arens, *The Man-Eating Myth: Anthropology and Anthropophagy* (1979).

believed to don animal skins for their attacks and simulate the injuries inflicted by wild animals.

One of the earliest and best-documented cases concerns the Human Leopard Society in Sierra Leone at the beginning of the twentieth century, described in an account by Kenneth J. Beatty.⁹⁷ Between 1912 and 1913, Beatty served as judge in a British Special Commission Court specifically set up to check the expansion of human leopard and alligator societies in Sierra Leone's hinterland. The Special Commission Court must have been an impressive display of imperial power. It clearly had the objective to firmly establish British authority in this part of Sierra Leone that had been declared a British protectorate in 1896 – merely 16 years before the trials against the human leopards described by Beatty were heard. Hundreds of people, most of them traditional leaders and members of the indigenous political elite, were arrested and 34 were put on trial.⁹⁸ The court meted out harsh punishment: seven accused were sentenced to death and publicly executed, four were sentenced to life imprisonment, and 56 chiefs and headmen were expelled from Sierra Leone.⁹⁹

The Special Commission Court concluded that the members of the Human Leopard Society were mainly community leaders and chiefs. They committed murders to use human flesh and fat for a fetish or 'medicine', referred to as *borfima*.¹⁰⁰ By feeding the *borfima*, the members of the society hoped to acquire material wealth, influence, and status. Each member of the society was required to provide a relative, often a child or woman, to be killed by the society.¹⁰¹

The judges of the special court were clearly convinced that they had checked the advance of a dangerous cult that posed a threat to colonial rule and public order in the protectorate.¹⁰² Beatty's account is replete with statements such as 'after hearing the evidence, no one could doubt that a murder had been committed, and that that murder had been committed by members of the Human Leopard Society'.¹⁰³ Judging by the information supplied by Beatty himself, it is hard to share his confidence. The special court did not have any forensic evidence and solely relied on the oral testimony of insider witnesses, who allegedly were members of the Human Leopard Society.¹⁰⁴ Beatty did not seem aware of any problems of translation or cultural difference and assumed that the accusations against human leopards had to be understood literally.

However, historical research suggests a different interpretation of the human leopard phenomenon. The evidence in these cases was often far from conclusive, as Pratten's historical study of man-leopard murders in Nigeria in the 1940s shows. In the cases studied by Pratten, several post-mortem examinations were carried out but they produced highly ambivalent forensic evidence. In fact, it was very difficult to

97 K. J. Beatty, *Human Leopards: An Account of the Trials of Human Leopards before the Special Commission Court: With a Note on Sierra Leone, Past and Present* (1915).

98 *Ibid.*, at 124–5.

99 *Ibid.*, at 34–5, 42–3, 59–60, 80, 82.

100 *Ibid.*, at 23.

101 *Ibid.*, at 28, 37–8, 45.

102 See *ibid.*, at ix.

103 *Ibid.*, at 41.

104 *Ibid.*, at 34, 36, 44, 62.

distinguish a real leopard attack from a simulated one. Since most deaths occurred in areas where leopards were prevalent, it is possible that many deaths attributed to the leopard men were in fact wild-animal killings.¹⁰⁵ In Sierra Leone, the Special Commission Court did not conduct any post-mortem examinations and only relied on witness statements attributing the deaths to human leopards. The court rejected contradicting witness testimony that blamed the deaths on leopard attacks, although the areas where the alleged murders took place were rife with leopards, as Beatty himself noted.¹⁰⁶ Beatty and his colleagues also ignored the intense power struggles among the indigenous elite in the wake of the establishment of the protectorate and the expansion of the colonial economy, which might have had an influence on accusations against chiefs and other political leaders.

I dealt with the trials against human leopards at some length because they speak to the main argument of this article in several ways. First, the physical evidence in these trials was ambiguous and witness statements were contradictory. Based on the historical evidence, it is impossible to assume the existence of human leopard societies committing ritual killings in the way the colonial authorities did. Anthropological and historical studies suggest a different reading of the human leopard cases.¹⁰⁷ They draw attention to the profound changes African societies were undergoing during the expansion of colonial rule and capitalism since the nineteenth century. According to this interpretation, the resulting insecurity and conflicts were expressed in the idiom of shape-shifting cults and the supernatural with a long tradition in this part of Africa. It was not at all clear what people actually meant when they accused people of being human leopards or eating their victims. In encounters with colonial authorities, local beliefs and ideas were adapted to meet the perceptions of colonial administrators who saw their darkest fears confirmed.¹⁰⁸ Pratten argues that 'in the murky space between these views opportunities rose for political plotting, private intrigue and for lodging cynically motivated accusations',¹⁰⁹ resulting in 'outbreaks' of human leopard activity.

The leopard-men phenomenon gained wide currency in Western popular culture. They figure prominently in Tintin's adventures in the Congo, Rice-Burrough's Tarzan novels, and other works of fiction, and thus 'served to embed popular perceptions

105 D. Pratten, *The Man-Leopard Murders: History and Society in Colonial Nigeria* (2007), 6–7, 197, 200–1, 211, 216.

106 Beatty, *supra* note 97, at 33, 39–40, 43, 85.

107 See A. Abraham, *Topics in Sierra Leone History: A Counter-Colonial Interpretation* (1976), 120–30; Ferme, *supra* note 52, at 180–6; Pratten, *supra* note 105; P. Richards, 'Chimpanzees, Diamonds and War: The Discourses of Global Environmental Change and Local Violence on the Liberia–Sierra Leone Border', in H. Moore (ed.), *The Future of Anthropological Knowledge* (1996), 139, at 143; Shaw, *supra* note 51, at 232–41.

108 The President of the Special Commission Court, W. Brandford Griffith, is worth quoting in this regard, Beatty, *supra* note 97, at viii: 'In Mende-land the bush is not high, as a rule it is little more than scrub, nor is the vegetation exceptionally rank, but there is something about the Sierra Leone bush, and about the bush villages as well, which makes one's flesh creep. It may be the low hills with enclosed swampy valleys, or the association of the slave trade, or the knowledge that the country is alive with Human Leopards; but to my mind the chief factor in the uncanniness is the presence of numerous half-human chimpanzees with their maniacal shrieks and cries. The bush seemed to me pervaded with something supernatural, a spirit which was striving to bridge the animal and the human. Some of the weird spirit of their surroundings has, I think, entered into the people, and accounts for their weird customs.'

109 Pratten, *supra* note 105, at 10.

of Africa'¹¹⁰ still salient at the beginning of the twenty-first century, as the media attention for Marzah's statement exemplifies. Accounts of cannibalism and sinister rituals perfectly match the widespread perception of Africa as 'uncivilized' and a 'dark corner'¹¹¹ where senseless and tribal violence reigns – a tendency criticized by anthropologists such as Moran, Richards, and Shaw.¹¹²

3.2. Politics and cannibalism in Sierra Leone and Liberia

The first trials against the leopard men in Sierra Leone established a vocabulary fusing the widespread belief in supernatural forces, intense political rivalry, ideas about morality, concepts of personhood, and mysterious deaths. In Sierra Leone and Liberia, as in many parts of Africa, social relationships and personal development are framed in a rich language of eating and consumption. Initiation into secret societies such as the *poro* is also expressed in an idiom of being eaten or devoured by the bush spirits in order to be reborn as a full member of the community.

The political sphere, in particular, is conceptualized as a potentially dangerous terrain where powerful people 'eat' others in order to grow 'big'. This has been famously coined by Bayart as the politics of the belly,¹¹³ who describes the consumption of the state's resources by politicians and bureaucrats. In Sierra Leone, corrupt politicians are referred to as *bobor bele* – literally, guys with a belly eating ('to chop', in Krio) the state's resources. Therefore, the frequent cannibalism accusations in West Africa must not always be read literally. They should rather be interpreted in terms of a highly symbolical political language and critique of existing injustices, as Ferme and Shaw point out with regard to Sierra Leone.¹¹⁴

It should be noted, though, that these anthropological and historical studies do not rule out the possibility of genuine ritual murders or political assassinations disguised as such. Up to this day, newspapers in Freetown and Monrovia frequently report on ritual murders¹¹⁵ and, whilst many of these cases turn out to be politically motivated accusations, some do concern actual murders, either for ritualistic or more profane purposes. Ellis reports that ritual killings have been a feature of the Liberian political landscape at least since the 1950s.¹¹⁶ Based mainly on Liberian newspaper reports, he concludes that politicians and influential businessmen have relied on and continue to rely on the services of assassins known as 'heartmen' – 'freelance killers who specialise in procuring corpses or human organs for those who require them'.¹¹⁷ Again, it is hard to distinguish popular myth, political intrigue,

110 Ibid., at 17.

111 Crane, *supra* note 1, at 3.

112 M. H. Moran, *Liberia: The Violence of Democracy* (2006), 5–6; P. Richards, 'New War: An Ethnographic Approach', in P. Richards (ed.), *No Peace, No War: An Anthropology of Contemporary Armed Conflicts* (2005), 1; R. Shaw, 'Robert Kaplan and "Juju Journalism" in Sierra Leone's Rebel War: The Primitivizing of an African Conflict', in B. Meyer and P. Pels (eds.), *Magic and Modernity: Interfaces of Revelation and Concealment* (2003), 81.

113 J.-F. Bayart, *The State in Africa: The Politics of the Belly* (1993).

114 Ferme, *supra* note 52, at 180–6; Shaw, *supra* note 51, at 251–6.

115 For instance, in March 2010, newspapers in Monrovia reported the arrest of 10 people for ritual murder in Harper, in south-east Liberia: '10 Held for Ritual Murder in Harper', *Liberian Observer*, 26 March 2010. See also 'Nasty Business: A Spate of Ritual Killings Unnerves Liberia', *The Economist*, 3 February 2011.

116 Ellis, *supra* note 52, at 249–59.

117 Ibid., at 253.

and actual facts, especially since the newspapers in Liberia are not known for their high journalistic standards and tend to be embroiled in the very power struggles that spawn accusations of ritual murder in the first place.¹¹⁸

During the 1970s and 1980s, several high-profile cases of ritual murder were heard by Liberian courts. The most publicized case concerned two members of Liberia's tiny ruling elite: a member of the legislative and a senior government official from Harper, in the far south-east of the country. The evidence presented in their trial was ambivalent. The prosecution case rested on the statements of two co-accused who turned into key witnesses for the prosecution. In the witness stand, both claimed to have been tortured by the police and retracted their statements. Nevertheless, the two main accused and five accomplices were eventually found guilty and sentenced to death. The so-called Maryland Murders bear all the hallmarks of alleged ritual killings in West Africa: the evidence linking the accused to the deaths was ambiguous and they appeared to have been the victims of a political conflict. According to Ellis, both accused belonged to a rival faction within the ruling True Whig Party and opposed President Tolbert, who probably used the opportunity to allay the fears of the population and eliminate political rivals.¹¹⁹

During the civil wars in Sierra Leone (1991–2002) and Liberia (1989–96, 2000–03), there were also frequent reports about cannibalism. Especially in Liberia, various armed factions had a reputation for cannibalism, for both magical purposes and spreading terror.¹²⁰ Of course, it is fair to assume that not all of these stories were true but, according to Ellis, most of the armed factions committed acts of cannibalism. Cannibalism was also a theme during the hearings of the Liberian Truth and Reconciliation Commission (TRC). At a public hearing in Monrovia in January 2008, Milton Blahyi, a former commander of the United Liberation Movement of Liberia for Democracy (ULIMO), a faction that fought against Taylor's NPFL, confessed committing acts of magical cannibalism and ritual killings.¹²¹ Of course, testimony before the TRC should not be taken at face value and it should be noted that witnesses there were not subjected to cross-examination. Therefore, it is hard to say whether Blahyi was trying to exaggerate his crimes in an attempt to enhance his notoriety as 'warrior' and 'heartman' or actually confessed the crimes he had committed.¹²²

3.3. Leopard men and heartmen: fact or fantasy?

It is beyond the scope of this article to provide an answer to this question. This is the task of the judges and their staff who were preparing the judgment at the time of writing in March 2011. The main purpose of my analysis is to contextualize

¹¹⁸ Cf. *ibid.*, at 321. Ellis acknowledges the problem but concludes that local newspaper reports constitute 'crucial sources for Liberian history'. Whilst this is undoubtedly the case, it is necessary to exercise extreme caution regarding the veracity of these reports.

¹¹⁹ The most comprehensive account of the Maryland Murders is provided by Fred P. M. van der Kraaij, a Dutch diplomat who lived in Harper during the 1970s. He suggests that the accused were actually victims of a power struggle within the True Whig Party (www.liberiapastandpresent.org/RitualKillingsIndexB.htm).

¹²⁰ Ellis, *supra* note 52, at 263–5.

¹²¹ Marzah testified before the TRC in Monrovia on 10 February 2009. Unfortunately, at the time of writing in March 2011, his testimony was not available.

¹²² Cf. Gberie, *supra* note 38, at 4.

Marzah's witness statement. By drawing on historical and anthropological studies, it has tracked the genealogy of the Western fascination for Africa as an uncanny and savage place. The trials against the human leopards during the colonial period reveal how the perception of colonial officials was shaped by this imagery. The idea of a sinister criminal organization committing ritual murder to feed a fetish and terrorize the population proved so convincing to the colonial authorities in Freetown that they enacted legislation against 'Human Leopard and Alligator Societies'¹²³ and established a special court. When the court indeed uncovered evidence of ritual murder and secret societies, the leopard man quickly became a central character in the popular imagination of the African colonies.

My analysis further shows how the discourse about shape-shifting cults and ritual killings was influenced by African ideas about the nature of social relationships, political authority, and the supernatural that fused with the perceptions of the colonial administrators. This blend evolved into a highly symbolic idiom of political conflict and social critique. The metaphorical character of cannibalism in West Africa, however, does not mean that actual murders do not occur – they do occur, but to what extent they actually serve ritualistic purposes is difficult to establish.

So, did the prosecution simply draw attention to a particular gruesome aspect of the civil wars in Sierra Leone and Liberia by calling Marzah as a witness? Was it necessary in order to do justice to the victims? For Taylor and his lawyer, it was clear that the prosecution only called Marzah to present Taylor as a monster and to attract the attention of the media. It should be noted that, regardless of the veracity of Marzah's allegations, his testimony about alleged acts of cannibalism and ritual killings in Liberia were not relevant to the counts in the indictment. The Special Court's jurisdiction is limited to crimes committed on the territory of Sierra Leone. In general, ritual murder and cannibalism do not constitute a separate category of international crimes.

For many at the court, it was clear that the prosecution had called Marzah to 'throw mud', as a senior staff member remarked, and to attract the attention of the international media. The prosecution wanted to show to the court and the international audience that Taylor was indeed a 'bad man', as Desmond de Silva, the court's Chief Prosecutor between 2006 and 2007, put it. David Crane, the first Chief Prosecutor of the Special Court, went a step further when he referred to Taylor as a 'devil'. To achieve this aim, the prosecution tapped into Western images of Africa as a dark continent where cannibalistic warlords and witchdoctors hold sway, thereby ineluctably representing Africa as the primitive Other of Western modernity.

4. CONCLUSIONS

This article draws on the detailed in-depth analysis of one prosecution witness to illustrate how problematic representations of Africa, which can be traced back to the colonial period, continue to shape the West's image of Africa. This is of particular

¹²³ Beatty, *supra* note 97, at 13.

salience in the field of international criminal law, with its aspirations to universal legitimacy.

The adversarial system employed in international criminal trials, combined with the pressure to make headlines in order to enhance the courts' visibility or attract funding, as in the case of the Special Court, have favoured simplistic narratives of African conflicts, in particular by the prosecution. In the trials heard before the Special Court, prosecutors have emphasized the senselessness of the violence and the 'savage' aspects of the civil war in Sierra Leone. Marzah's statement was a perfect illustration of this tendency to exoticize Africa.

The analysis presented in this article seeks to draw the attention of legal scholars and practitioners to the findings of the historiographic and anthropological literature on ritual murder and cannibalism in West Africa in order to make sense of witness testimony evoking simplistic and distorted images of Africa as a place of savage mysteries. By showing the parallels between Marzah's testimony and problematic representations of Africa, this article aims at laying the foundation for the critical interrogation of the ways in which crimes committed in Africa are often misrepresented as international criminal law's evil and primitive Other. As critical commentators such as Mamdani and de Waal have pointed out, it would do more justice to the victims of violence in Africa and elsewhere if those accused of committing war crimes and crimes against humanity were understood as social actors in highly complex and fluid armed conflicts rather than mere caricatures personifying absolute evil. Of course, this would make it more difficult to make headlines, but, eventually, it would better serve the project of advancing global justice.